

REMARKS/ARGUMENTS

Claims 1-18 have been resubmitted. Claims 5, 15, and 16 have been amended.

The Examiner allowed Claim 18. Claims 5, 15 and 16 were objected to, but would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Thus applicant amended Claim 5 to recite all of the limitations of Claim 1; and amended Claims 15 and 16 to include the limitations of Claim 5.

Kail, IV does not apply because Kail was not filed in the U.S. before the invention by the applicant

The applicant herewith submits documents that provide evidence that Kail, with a filing date of 12 November 2002, was not filed in the U.S. "...before the invention by the applicant." See Exhibit 1. Exhibit 1 includes a (1) Contracting Agreement dated 17 June 2002 involving development of the applicant's invention (the last page displays the properties of the document, and the applicant's alleged creation date, created on 25 January 2003; (2) XataBox Electronics Specification Brief describing features of the invention; (3) Wireless Emergency Alert System Claim Chart (created on 16 May 2002); (4) Xatawave DAS Component Schedule (created on 3 March 2002); (5) XataWave Unique Marketing Proposition document (created on 13 June 2002); (6) XataWave EAS document (created on 20 May 2002); (7) Funding/Relationship Scenario document (17 March 2002); (8) Specifications document (created on 18 March 2002); (9) Description document (created on 18 March 2002).

Therefore Kail cannot be used under 102(e), and applicant requests reconsideration.

The claimed subject matter is not met by Kail, IV

Applicant submits that Claims 1-4 and 6-9 are not anticipated by Kail, IV (6,940,403).

Claim 1

1. The deployable alert unit having a housing is not met by the portable monitoring unit (12) because no housing is disclosed in Kail. In fact, the word "housing" does not even appear in the Kail patent. The applicant's housing has specific features such as sides 92, 94, 96, 98; portion 200; antenna 146, key switch 130, which are not disclosed in Kail, IV.
2. The transceiver in the housing is not met by the transceiver 26 because the transceiver 26 must interact with a communications device interface 24 to enable a wireless communication link 16 and central monitoring device to effectuate communication of the microprocessor 22, which does not teach or disclose the applicant's transceiver in a housing as defined by applicant.
3. The activate-able alert input means electronically connected to the transceiver is not met by the manual input device 32 which is connected to the transceiver because manual input device is limited to communicating with the microprocessor 22, unlike the applicant's invention as a whole.

102 rejection to Claims 2, 3, 4, 6-9 do not apply because of the limitations in Claim 1 above

103 rejections to claim 10-14, and 17 do not apply because of the limitations and distinctions described above in Claim 1.

CONCLUSION

Applicant invented his invention before the Kail, IV filing date; thus Kail, IV should not be used as a basis for any objections or rejections.

If it is interpreted that Kail, IV was filed before the applicant invented the invention, then the applicant would like an opportunity to amend the claims at a later date. Applicant does not want to amend now, because in light of the evidence that Kail, IV was not filed before applicant's date of invention, there may be no need to amend the claims.

Reconsideration of the rejections and objections is requested.

In the event the examiner wishes to discuss any aspect of this response, please contact the attorney at the telephone number identified below.

Respectfully submitted,

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